

Mandate of the Special Rapporteur on the independence of judges and lawyers

REFERENCE:
AL UZB 5/2019

2 December 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolution 35/11.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **alleged acts of intimidation against civil society representatives** who engaged and cooperated with my mandate during the official visit I undertook to Uzbekistan from 19 to 25 September 2019.

Upon the conclusion of the visit, the following allegations were brought to my attention:

Mr. Dilmurod Madaliev

Mr. Madaliev is a human rights defender from Fergana. A former police officer, he served a criminal sentence based on reportedly trumped-up charges linked to corruption. Following his release, Mr. Madaliev has been providing legal advice and assistance to his former co-inmates.

On 21 September 2019, Mr. Madaliev participated in a meeting with a group of rights defenders that I organized in Fergana. Following this meeting, he was allegedly approached by an unidentified officer of the anti-terrorism police unit, who asked him to provide information about other individuals who attended the meeting and about the content of their interventions.

Mr. Akhmadjan Madmarov and Mr. Ganikhon Mamatkhonov

Mr. Madmarov and Mr. Mamatkhonov are two human rights defenders from Fergana. They are former political prisoners who served prison sentences related to broadly-worded extremism charges, and later released by the President. Both individuals are allegedly subject to "informal talks" with the security officers on a regular basis.

On 21 September 2019, they participated in a meeting I organised in Fergana, along with other civil society representatives. It is reported that after the meeting, plain-clothes security officers were outside the hotel premises and Mr. Mamatkhonov was followed by a car on his way home without being approached or questioned directly.

Mr. Akzam Turgunov

Mr. Turgunov is a human rights defender. On 23 October 2008, he was sentenced to ten years' imprisonment on the basis of allegedly trumped-up charges, and released by Presidential order in October 2017.

Mr. Turgunov was the subject of two previous communications (UZB 15/2008 and UZB 18/2008). I acknowledge the receipt of the replies to these communications from your Excellency's Government. However, I remain concerned about the new information which has been brought to my attention in the context of my official visit to Uzbekistan.

Prior to his meeting with me, Mr. Turgunov allegedly received a telephone call from an unidentified officer of the State Security Service. He was asked to explain the reason why he would meet with the Special Rapporteur and the kind of information he intended to share with him. It is unclear how the State Security Service was informed about this meeting.

On 22 September 2019, despite the alleged intimidation call received, Mr. Turgunov met with me. He was not approached or questioned by anybody after the meeting. It is reported that as a human rights defender and former political prisoner, Mr. Turgunov is routinely subject to surveillance, particularly when he meets with foreigners or is invited to participate in activities organised by international organisations in or outside the country.

Moreover, I received additional information and credible testimony of acts of intimidation and reprisals against other individuals who met or tried to meet with me during my official visit. I cannot raise such allegations in details due to protection concerns and fear of further reprisal against the individuals concerned.

Without prejudging the accuracy of the information received, concern is expressed in relation to the intimidation suffered from individuals that have engaged and cooperated with me during my visit to Uzbekistan.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to our attention, I would be grateful for your observations on the following matters:

1. Any additional information and comments which you may have on the above mentioned allegations.

2. Detailed information on the steps that have been taken to ensure that human rights defenders and civil society actors in Uzbekistan, and their families, are not subject to acts of intimidation and/or reprisal for their cooperation with international bodies, including United Nations mechanisms.
3. Detailed information on the measures taken to ensure that human rights defenders and other civil society actors in Uzbekistan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

In light of the allegations of reprisals for cooperation with the United Nations on human rights, I reserve the right to share this communication – and any response received from the Government of Uzbekistan - with other United Nations bodies or representatives addressing intimidation and reprisals for cooperation with the United Nations in the field of human rights, including the Special Rapporteur on the situation of human rights defenders and the senior United Nations official appointed by the Secretary-General to lead the efforts within the United Nations system to address intimidation and reprisals against those cooperating with the UN on human rights.

I would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of my highest consideration.

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your attention to articles 19 of the International Covenant on Civil and Political Rights, acceded to by Uzbekistan on 28 September 1995, which provide for the rights to freedom of opinion and expression and freedom of association.

I also wish to refer to the Terms of Reference for country visits¹ by Special Procedure mandate holders, which specify that during country visits, mandate holders of the United Nations Human Rights Council, as well as United Nations staff accompanying them, should be given the following guarantees and facilities by the Government that invited them to visit its country:

- (a) Freedom of movement in any part of the country, including facilitation of transport, particularly to restricted areas;
- (b) Freedom of inquiry, in particular as regards:
 - (...)
 - (ii) Private contacts with representatives of civil society, including non-governmental organizations, other private institutions and the media;
 - (iii) Confidential and unsupervised contact with witnesses and other private persons, including persons deprived of their liberty, considered necessary to fulfil the mandate of the mandate holder;
 - (iv) Access to all prisons, detention centres and places of interrogation as considered necessary by the mandate holder to fulfil his or her mandate; and
 - (...)
- (c) Assurance by the Government that no person or group of persons, whether acting in their official or individual capacities, who cooperate, seek to cooperate, or have cooperated with the mandate holder in relation to the mandate, will for this reason suffer intimidation, threats, harassment or punishment, be subjected to judicial proceedings or to any other kind of reprisals by any means whatsoever; assurance that any measures that could deter such cooperation or be perceived as such, will be avoided. These

¹ E/CN.4/1998/45, Appendix V, revised by the 2016 Annual Meeting of Special Procedures, available at: <https://www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf>

assurances should apply before, during and after the conduct of country visits.

I would like to recall Human Rights Council resolutions 12/2, 24/24, 36/21, and 42/28 which reaffirm the right of everyone, individually or in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council calls on States to prevent and refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies as well as the issuance of appropriate guidance to national authorities in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights from any act of intimidation or reprisal.

In particular, resolution 42/28 reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and treaty bodies, as well as regional human rights mechanisms, bearing in mind that free and unhindered access to and communication with individuals and civil society are indeed indispensable to enable the United Nations and its mechanisms to fulfil their mandates.